

REMARKS

Applicant appreciates the Examiner's thorough consideration provided the present application. Claims 1-7 are now present in the application. Claims 1, 2, 6 and 7 have been amended. Claim 1 is independent. Reconsideration of this application, as amended, is respectfully requested.

Reasons For Entry Of Amendments

As discussed in greater detail hereinafter, Applicant respectfully submits that the rejection under 35 U.S.C. § 103(a) is improper and should immediately be withdrawn. Accordingly, the finality of the Final Office Action mailed on February 23, 2005 should be withdrawn.

If the Examiner persists in maintaining his rejections, Applicant submits that this Amendment was not presented at an earlier date in view of the fact that Applicant is responding to a new ground of rejection set forth in the Final Office Action. In accordance with the requirements of 37 C.F.R. §1.116, Applicant respectfully requests entry and consideration of the foregoing amendments as they remove issues for appeal.

Claim Rejections Under 35 U.S.C. § 103

Claims 1-7 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sarussi, U.S. Patent No. 6,553,242. This rejection is respectfully traversed.

In light of the foregoing amendments to the claims, Applicant respectfully submits that this rejection has been obviated and/or rendered moot. As the Examiner will note, independent claim 1 has been amended to incorporate a portion of the subject matter of claim 2. In particular, independent claim 1 has been amended to recite a combination of elements including "an infrared heartbeat detector, the infrared heartbeat detector detecting a pulsation signal". Applicant respectfully submits that the above combination of elements as set forth in amended independent claim 1 is not disclosed nor suggested by the reference relied on by the Examiner.

Saurssi discloses a physiological stress device 10 including a light source 16 emitting light of two wavelengths, red and infrared, and a photodetector 18 for detecting the reflected light (see col. 9, lines 61-67; col. 10, lines 1-6). In other words, Saurssi requires a detector to detect the red light and the infrared ray for the CPU 44 to calculate the oximetry. Therefore, Saurssi fails to teach "an infrared heartbeat detector, the infrared heartbeat detector detecting a pulsation signal" as recited in claim 1. Unlike Saurssi, the present invention simply uses an infrared heartbeat detector to obtain the pulsation signal, which

effectively simplifies the design of the heartbeat detector. This feature is not found in Saurssi.

Dependent claim 5 recites "the heartbeat detector, the signal processing circuitry, and the radio frequency wireless signal transmission circuitry are all placed only on the fingertip of the user". The Examiner alleged that Saurssi in col. 2, lines 6-11, col. 4, lines 11-14 and 56-62, and col. 17, lines 48-67 teaches the recitation of claim 5. Applicant respectfully disagrees. Saurssi merely discloses that the two wavelengths of light can be transmitted through the finger (see col. 2, lines 6-11). Saurssi fails to teach the physiological stress device 10 (including the detector 35 and the signal processor 40) and the RF transmitter 50 are all placed only on the fingertip of the user as recited in claim 5. In fact, Saurssi discloses that the RF transmitter 50 is not part of the physiological stress device 10 and that optional connection to the RF transmitter 50 is available (see FIG. 6; col. 11, lines 34-35). Accordingly, Saurssi fails to teach the recitation of claim 5.

Dependent claims 6 and 7 recite "the wireless pulsation detector further includes a radio receiving set". Support for claims 6 and 7 can be found on page 4, lines 19-20. This radio receiving set could be a walkman, for example. A user can therefore have entertainment/relaxation benefits with this design. The Examiner referred to the RF transmitter 50 as the radio unit. However, the RF

transmitter 50 can not be a radio receiving set. Therefore, Saurri fails to teach the recitation of claims 6 and 7.

Since Saurssi fails to teach each and every limitation of amended independent claim 1 or its dependent claims, Applicant respectfully submits that independent claim 1 and its dependent claims clearly define over the teachings of Saurssi. Accordingly, reconsideration and withdrawal of the rejection under 35 U.S.C. § 103 are respectfully requested.

CONCLUSION

Since the remaining patents cited by the Examiner have not been utilized to reject the claims, but merely to show the state of the prior art, no further comments are necessary with respect thereto.


It is believed that a full and complete response has been made to the Office Action, and that as such, the Examiner is respectfully requested to send the application to Issue.

In the event there are any matters remaining in this application, the Examiner is invited to contact Joe McKinney Muncy, Registration No. 32,334 at (703) 205-8000 in the Washington, D.C. area.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By 

Joe McKinney Muncy
Reg. No. 32,334

So.

43,368

KM/GH/mmi/asc
3380-0148P

6/2

P. O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000